

## Chapter 119

### DRUG PARAPHERNALIA

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**[HISTORY: Adopted by the Village Board of the Village of Iola at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]**

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#### § 119-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**DRUG PARAPHERNALIA** — All equipment, products and materials of any kind that are used, designed for use or primarily intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance or controlled substance analog in violation of this chapter.

A. “Drug paraphernalia” includes, but is not limited to, any of the following:

- (1) Kits used, designed for use or primarily intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant that is a controlled substance or from which a controlled substance or controlled substance analog can be derived.
- (2) Kits used, designed for use or primarily intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances or controlled substance analogs.
- (3) Isomerization devices used, designed for use or primarily intended for use in increasing the potency of any species of plant that is a controlled substance.
- (4) Testing equipment used, designed for use or primarily intended for use in identifying, or in analyzing the strength, effectiveness or purity of, controlled substances or controlled substance analogs.
- (5) Scales and balances used, designed for use or primarily intended for use in weighing or measuring controlled substances or controlled substance analogs.

- (6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, designed for use or primarily intended for use in cutting controlled substances or controlled substance analogs.
  - (7) Separation gins and sifters used, designed for use or primarily intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
  - (8) Blenders, bowls, containers, spoons and mixing devices used, designed for use or primarily intended for use in compounding controlled substances or controlled substance analogs.
  - (9) Capsules, balloons, envelopes and other containers used, designed for use or primarily intended for use in packaging small quantities of controlled substances or controlled substance analogs.
  - (10) Containers and other objects used, designed for use or primarily intended for use in storing or concealing controlled substances or controlled substance analogs.
  - (11) Objects used, designed for use or primarily intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:
    - (a) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.
    - (b) Water pipes.
    - (c) Carburetion tubes and devices.
    - (d) Smoking and carburetion masks.
    - (e) Roach clips; meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.
    - (f) Miniature cocaine spoons and cocaine vials.
    - (g) Chamber pipes.
    - (h) Carburetor pipes.
    - (i) Electric pipes.
    - (j) Air-driven pipes.
    - (k) Chilams.
    - (l) Bongs.
    - (m) Ice pipes or chillers.
- B. "Drug paraphernalia" excludes:
- (1) Hypodermic syringes, needles and other objects used or intended for use in parenterally injecting substances into the human body.

- (2) Any items, including pipes, papers and accessories, that are designed for use or primarily intended for use with tobacco products.

PRIMARILY — Chiefly or mainly.

**§ 119-2. Determination.**

- A. In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other legally relevant factors, the following:
  - (1) Statements by an owner or by anyone in control of the object concerning its use.
  - (2) The proximity of the object, in time and space, to a direct violation of this chapter.
  - (3) The proximity of the object to controlled substances or controlled substance analogs.
  - (4) The existence of any residue of controlled substances or controlled substance analogs on the object.
  - (5) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is designed for use or primarily intended for use as drug paraphernalia.
  - (6) Instructions, oral or written, provided with the object concerning its use.
  - (7) Descriptive materials accompanying the object that explain or depict its use.
  - (8) Local advertising concerning its use.
  - (9) The manner in which the object is displayed for sale.
  - (10) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
  - (11) The existence and scope of legitimate uses for the object in the community.
  - (12) Expert testimony concerning its use.
- B. In determining under this chapter whether an item is designed for a particular use, a court or other authority shall consider the objective physical characteristics and design features of the item.
- C. In determining under this chapter whether an item is primarily intended for a particular use, a court or other authority shall consider the subjective intent of the defendant.

**§ 119-3. Possession of drug paraphernalia.**

- A. No person may use, or possess with the primary intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or

otherwise introduce into the human body a controlled substance or controlled substance analog in violation of this chapter. Any person who violates this section may be fined not more than \$500, plus costs, or imprisoned for not more than 30 days, or both.

- B. Any person who violates this section who is under 17 years of age is subject to a disposition under Sec. 938.344(2e), Wis. Stats.

**§ 119-4. Manufacture or delivery of drug paraphernalia.**

- A. No person may deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be primarily used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of this chapter. Any person who violates this section may be fined not more than \$1,000, plus costs, or imprisoned for not more than 90 days, or both.
- B. Any person who violates this section who is under 17 years of age is subject to a disposition under Sec. 938.344(2e), Wis. Stats.

**§ 119-5. Delivery of drug paraphernalia to a minor.**

- A. Any person 17 years of age or over who violates § 119-4 by delivering drug paraphernalia to a person 17 years of age or under who is at least three years younger than the violator may be fined not more than \$10,000, plus costs, or imprisoned for not more than nine months, or both.
- B. Any person who violates this section who is under 17 years of age is subject to a disposition under Sec. 938.344(2e), Wis. Stats.

**§ 119-6. Advertisement of drug paraphernalia.**

No person may place in any newspaper, magazine, handbill or other publication any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed for use or primarily intended for use as drug paraphernalia in violation of this chapter. Any person who violates this section may be fined not more than \$500, plus costs, or imprisoned for not more than 30 days, or both.